

HOUSE BILL 614

By Turner M

AN ACT to amend Tennessee Code Annotated, Title 54 and Title 65, to enact the "Tennessee Terrorism Prevention in Hazardous Materials Transportation Act of 2007".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 54, is amended by adding Sections 2 through 8 of this act as a new part.

SECTION 2. The title of this is and may be cited as the "Tennessee Terrorism Prevention in Hazardous Materials Transportation Act of 2007".

SECTION 3. As used in this act, unless the context otherwise requires:

(1) "Capitol Exclusion Zone" means all points within 2.2 miles of the Tennessee State Capitol building.

(2) "Emergency" means an unanticipated, temporary situation that threatens the immediate safety of individuals or property, as determined by the state department of transportation.

(3) "Person" means an individual or a commercial entity.

(4) "Practical alternative route" means a route:

(A) Which lies entirely outside the Capitol Exclusion Zone; and

(B) Whose use would not make shipment of the materials in question cost-prohibitive.

SECTION 4. The general assembly finds that:

(1) A terrorist attack on a large-quantity hazardous material shipment near the Tennessee State Capitol ("Capitol") would be expected to cause tens of thousands of deaths and a catastrophic economic impact on the state of Tennessee.

(2) The threat of terrorism facing Tennessee residents and workers in the vicinity of the Capitol requires an urgent response that recognizes and addresses the unique status of this area in American politics and history, and the risk of terrorism that results from this status.

(3) The general assembly has not acted to prevent the terrorist threat resulting from the transportation of dangerous quantities of ultra-hazardous materials near the Capitol.

(4) Shippers of ultra-hazardous materials do not need to route large quantities of ultra-hazardous chemicals near the Capitol in order to ship these chemicals to their destinations, and alternative routes would substantially decrease the aggregate risk posed by terrorist attacks.

(5) Requiring permits for ultra-hazardous shipments from a Capitol Exclusion Zone that encompasses all points within 2.2 miles of the Capitol would impose no significant burden on interstate commerce.

SECTION 5. Except in cases of emergency, no person shall in the Capitol Exclusion Zone, without a permit issued pursuant to Section 6,:

(1) Transport any of the following:

(A) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms;

(B) Flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters;

(C) Poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116; and

(D) Poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133; or

(2) Operate a motor vehicle or move a rail car which:

(A) Is capable of containing explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms, and has exterior placarding or other markings indicating that it contains such materials;

(B) Is capable of containing flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters, and has exterior placarding or other markings indicating that it contains such materials;

(C) Is capable of containing poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116, and has exterior placarding or other markings indicating that it contains such materials; or

(D) Is capable of containing poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms., and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133, and has exterior placarding or other markings indicating that it contains such materials.

SECTION 6.

(a) The department of transportation may issue permits authorizing the transportation of materials listed in Section 5 upon a demonstration that there is no practical alternative route. A permit may require adoption of safety measures, including time-of-day restrictions.

(b) The department of transportation may collect fees for the permits in accordance with the rules issued under Section 8.

(c) Permit fees collected pursuant to this section shall not exceed the cost of implementing and enforcing this act.

SECTION 7.

(a) Any person who violates section 5 or rules issued under section 8 shall be subject to a civil penalty not to exceed:

(1) Ten thousand dollars (\$10,000) for a first violation; or

(2) Twenty-five thousand dollars (\$25,000) for any subsequent violation.

(b) The fines assessed and collected under subsection (a) shall be assessed only after a hearing held in accordance with the uniform administrative procedures act and shall be deposited into the state general fund.

SECTION 8. The commissioner of transportation shall issue rules and regulations pursuant to the uniform administrative procedures act, title 4, chapter 5, to implement the provisions of this act, including a schedule of permit fees to support analysis, communications to shippers and carriers, and the enforcement program.

SECTION 9. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 2008, the public welfare requiring it.